

REMARKS

Applicants have now had an opportunity to carefully consider the comments set forth in the Office Action of June 20, 2007.

Reconsideration of the Application is requested.

The Office Action

Claim 1 stands rejected under 35 U.S.C. §112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claims 1-9 stand rejected under 35 U.S.C. §102(b) as being anticipated by U.S. Patent No. 5,842,178 issued to Giovannoli.

The Non-Art Rejections

With reference to independent claim 1 of the present application, the Office Action states that it recites the words "commodity parts or devices". The Office Action then asserts that the scope of the claim is unclear as to what the difference is between commodity parts or devices, and the specification fails to clarify the meaning of the limitation. Applicants respectfully traverse this rejection. As seen by the attached dictionary definitions, the meaning of these words are well known and understood in the art.

Further, of the three words in the subject phrase, the word "commodity" is clarified in paragraph [0027] of the present application where it is indicated that a commodity part or device is one that is found in an existing catalog, whereas a non-commodity part or device is not. The words "part" and "device" do not need to be further defined in the specification because their meanings are intended to be interpreted as the well known usual and customary meanings as known in the art and defined in the dictionary (see attached).

The Art Rejections

Independent Claim 1 not Anticipated by Giovannoli

With reference to independent claim 1 of the present application, the Office Action rejects the claim under 35 U.S.C. §102(b) based on the teachings of Giovannoli. Applicants respectfully traverse this rejection.

A feature of claim 1 is the step of "determining whether the request for quotation is **for a commodity part or device or is for a non-commodity part or device**, and (i) selecting which of the generated documents are to be attached as part of an item bidding process **corresponding to each of the commodity parts or devices** or (ii) selecting which of the generated documents are to be attached as part of a service bidding process **corresponding to each of the non-commodity parts or devices**." The claim clearly recites a limitation for determining whether the bidding is for a commodity item or for a non-commodity item, and performing appropriate selection of documents based on this determining. Applicants respectfully submit that Giovannoli does not teach or suggest this recited limitation. Contrariwise, Giovannoli states that **"the goods and services must be standard items** to ensure that there is no confusion as to what buyers are requesting and what sellers are offering to buyers" (col. 3, line 66 – col. 4, line 1). Further, Giovannoli teaches that **"Standardization of product or service descriptions is essential** to avoid confusion unless a more text oriented specification is appropriate to the product or service type" (col. 4, lines 7-15). Giovannoli clearly teaches against processing requests for non-commodity parts or devices as recited in the subject claim.

Further, claim 1, as amended, recites a limitation: "the request for quotation and attachments including both engineering and business documents." The above-quoted teachings of Giovannoli also teach against including engineering documents. Giovannoli teaches standardization of product or service descriptions, or appropriate text oriented descriptions to avoid confusion. The engineering documents as recited in claim 1 of the present application, however, are essential for the description of non-commodity parts. For example, "Electronic transmission of engineering data, such as drawings, to the supplier on such an immediate basis decreases the lead-time necessary for generation of the actual physical parts to be delivered to the buyer" (par. [0021]).

For at least the reasons set forth above, Applicants respectfully submit that the Giovannoli reference does not teach, support, or fairly disclose each and every element of independent claim 1, as amended, and therefore claim 1 is in condition for allowance. As dependent claims 2-9 depend from claim 1 and recite additional limitations serving to further distinguish these claims over the Giovannoli reference, it is respectfully submitted that claims 2-9 are also in condition for allowance.

The Examiner's Response to Arguments

In the Examiner's Response to Arguments, with reference to the recited limitation "wherein the request for quotation and attachments include both engineering and business documents", the Office Action asserts that the "wherein" language makes optional the recited limitation and, therefore, does not limit the scope of the claim or limitation. Applicants respectfully traverse this position and submit that one of ordinary skill in the art would understand that the request for quotation would include both engineering and business documents. Applicants further point out that the MPEP, as stated in the Response to Arguments, lists the "wherein" phrase as an example "of language that **may** raise a question as to the limiting effect of the language." Applicants respectfully submit that the context within which the "wherein" language was used should not raise such a question. Nonetheless, Applicants have herein amended claim 1 to eliminate the "wherein" phrase to move prosecution forward.

New claims 10-14

New claims 10-14 further define the present concepts and over the art of record.

The present Office Action is incomplete

Claims 1-9 were rejected under 35 U.S.C. §102(b) as being anticipated by Giovannoli. In this regard, both the previous Office Action mailed December 19, 2006 and the present the Office Action direct the attention of Applicants vaguely to columns 1-8, lines 1-67 (the entire patent) of the discussion of the Giovannoli reference.

However, it is respectfully submitted that Giovannoli does not disclose or suggest the subject matter of claims 1-9, as described above. That the Office found it not to be practicable to designate the particular part of Giovannoli relied on with any more specificity than somewhere within the entire disclosure of Giovannoli is clear evidence in support of this assertion.

Alternatively, the present Office Action is incomplete because "when a reference is complex or shows or describes inventions other than that claimed by the Applicant, the particular part relied on must be designated as nearly as practicable. The pertinence of each reference, if not apparent, must be clearly explained and

each rejected claim specified" (MPEP 707; 37 CFR 1.104(c)(2)).

Accordingly, if the rejections of claims 1-9 in light of Giovannoli (or any other reference) are to be maintained (or newly made), applicants request the specific portions of the specification of Giovannoli (or any other reference), which the Office believes indicate that the analogous elements perform the functions recited in the claims of the present application, be pointed out.

CONCLUSION

For the reasons detailed above, it is submitted all claims remaining in the application (Claims 1-14) are now in condition for allowance. The foregoing comments do not require unnecessary additional search or examination.

☒ Remaining Claims, as delineated below:

(1) FOR	(2) CLAIMS REMAINING AFTER AMENDMENT LESS HIGHEST NUMBER PREVIOUSLY PAID FOR	(3) NUMBER EXTRA
TOTAL CLAIMS	14 - 20 =	0
INDEPENDENT CLAIMS	2 - 3 =	0

☒ This is an authorization under 37 CFR 1.136(a)(3) to treat any concurrent or future reply, requiring a petition for extension of time, as incorporating a petition for the appropriate extension of time.

☒ The required two-month extension of time fee for filing of this document is being charged to a credit card via the EFS Web.

☒ The Commissioner is hereby authorized to charge any filing or prosecution fees which may be required, under 37 CFR 1.16, 1.17, and 1.21 (but not 1.18), or to credit any overpayment, to Deposit Account 06-0308.

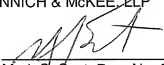
In the event the Examiner considers personal contact advantageous to the disposition of this case, he/she is hereby authorized to call Mark Svat, at Telephone Number (216) 861-5582.

Respectfully submitted,

FAY, SHARPE, FAGAN,
MINNICH & McKEE, LLP

November 20, 2007

Date


Mark S. Svat, Reg. No. 34,261
1100 Superior Avenue, Seventh Floor
Cleveland, OH 44114-2579
216-861-5582

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product

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product

by-product
Cartesian product
cross product
direct product
dot product
gross domestic product
gross national product
inner product
partial product

Main Entry: **prod·uct**

Pronunciation: \prɪ-(.)dʌkt\

Function: *noun*

Etymology: in sense 1, from Middle English, from Medieval Latin *productum*, from Latin, something produced, from neuter of *productus*, past participle of *producere*; in other senses, from Latin *productum*

Date: 15th century

1: the number or expression resulting from the multiplication together of two or more numbers or expressions

2 a (1): something **produced**; especially: **COMMODITY** 1 (2): something (as a service) that is marketed or sold as a commodity **b**: something resulting from or necessarily following from a set of conditions <a *product* of his environment>

3: the amount, quantity, or total **produced**

4: **CONJUNCTION** 5

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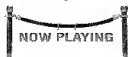
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Main Entry: **de·vice** **di·vis**

Pronunciation: 'di-'vis\

Function: *noun*

Etymology: Middle English *devis*, *devise*, from Anglo-French, division, plan, from *deviser* to divide, regulate, tell — more at **DEVISE**

Date: 14th century

- 1** : something devised or contrived: as **a** (1) : **PLAN, PROCEDURE, TECHNIQUE**
(2) : a scheme to deceive : **STRATAGEM, TRICK** **b** : something fanciful, elaborate, or intricate in design **c** : something (as a figure of speech) in a literary work designed to achieve a particular artistic effect **d** *archaic* : **MASQUE, SPECTACLE**
e : a conventional stage practice or means (as a stage whisper) used to achieve a particular dramatic effect **f** : a piece of equipment or a mechanism designed to serve a special purpose or perform a special function <an electronic *device*>
2 : **DESIRE, INCLINATION** <left to my own *device*>
3 : an emblematic design used especially as a heraldic bearing

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commodity

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commodity

Main Entry: **com-mod-i-ty**

Pronunciation: 'kō-'mā-dō-tē

Function: *noun*

Inflected Form(s): plural **com-mod-i-ties**

Etymology: Middle English *commoditee*, from Anglo-French *commoditee*, from Latin *commoditat-*, *commoditas*, from *commodus*

Date: 15th century

1 : an economic good: as **a** : a product of agriculture or mining **b** : an article of commerce especially when delivered for shipment <commodities futures> **c** : a mass-produced unspecialized product <commodity chemicals> <commodity memory chips>

2 a : something useful or valued <that valuable commodity patience>;

also : **THING**, **ENTITY** **b** : **CONVENIENCE**, **ADVANTAGE**

3 obsolete : **QUANTITY**, **LOT**

4 : a good or service whose wide availability typically leads to smaller profit margins and diminishes the importance of factors (as brand name) other than price

5 : one that is subject to ready exchange or exploitation within a market <stars as individuals and as commodities of the film industry — *Film Quarterly*>

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